PATENT
Serial No. 10/552,812
Interview Summary in Response to Examiner Teleconferences of December 4, 2009
and December 8, 2009

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By _____
(Signature) Gregory L. Thorne

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	Atty. Docket DE030112
BERNHARD GLEICH ET AL.	Confirmation No.: 4273
Serial No. 10/552,812	Examiner: JOHN F. RAMIREZ
Filed: October 11, 2005	Group Art Unit: 3737

Title: ARRANGEMENT AND METHOD FOR THE SPATIALLY RESOLVED DETERMINATION OF STATE VARIABLES IN AN EXAMINATION AREA

By Fax to Examiner Ramirez
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Interview Summary

Sir:

In response to the Examiner Teleconferences of December 4, 2009 and December 8, 2009, please consider the remarks as follows:

REMARKS/ARGUMENTS

This Interview Summary is being filed in response to the Examiner Teleconferences of December 4, 2009 and December 8, 2009. Reconsideration and allowance of the application in view of the remarks to follow are respectfully requested.

The Applicants want to thank the Examiner and appreciate the courtesies extended during the Examiner Teleconferences of December 4, 2009 and December 8, 2009, between Examiner Ramirez and Gregory L. Thorne, Attorney for the Applicants (hereinafter, "the Applicants Representative").

During the teleconferences, the Examiner indicated that claims 39-63 are in condition for allowance however, the Examiner indicated that there is still an outstanding matter of the provisional rejection of claims 39-61 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 7,300,452 and claims 1-8 and 11-17 of copending U.S. Patent Application No. 10/270,991.

During the teleconferences, the Applicants Representative discussed the outstanding rejections and indicated that the Applicants would file a terminal disclaimer regarding copending U.S. Patent Application No. 10/270,991, and such a terminal

disclaimer was filed through EFS on December 4, 2009 (copy attached for the Examiners convenience), however, it was indicated by the Applicants Representative that it is believed that the provisionally rejected on the ground of nonstatutory obviousness-type double patenting over claims 1-14 of U.S. Patent No. 7,300,452 was believed improper since claims 1-14 of U.S. Patent No. 7,300,452 have little if anything to do with the currently indicated allowable claims 39-61 of U.S. Patent Application Serial No. 10/552,812.

For example, independent claim 1 of U.S. Patent No. 7,300,452 is directed to (emphasis added):

> A method for the heating of magnetic particles which are present in a target region, which method includes the steps of a) generating a magnetic field whose magnetic field strength varies in space in such a manner that a first sub-region (301) having a low magnetic field strength and a second sub-region (302) having a higher magnetic field strength are formed in the target region, b) changing the position in space of the two sub-regions in the target region in a nonrotational manner for so long and with such a frequency that the target region is heated.

Independent claim 9 of U.S. Patent No. 7,300,452 is directed to (emphasis added):

> An arrangement for the heating of magnetic particles which are present in a target region, the arrangement comprising a) means for generating a magnetic field

> whose magnetic field strength varies in space in such a manner that a first sub-region (301) having a low magnetic field strength and a second sub-region (302) having a higher magnetic field strength are formed in the target region, b) means for changing the position in space of the two sub-regions in the target region in a nonrotational manner for so long and at such a frequency that the target region is heated.

It is respectfully submitted that as should be clear from the sole independent claims of U.S. Patent No. 7,300,452, claims 1-14 of U.S. Patent No. 7,300,452 have nothing or little to do with the currently indicated allowable claims 39-63 of U.S. Patent Application Serial No. 10/552,812.

For example, independent claim 39 of U.S. Patent Application No. 10/552,812 is directed to (emphasis added):

> A method for examining an object, the method comprising acts of:
>
> introducing magnetic particles into at least part of a target area of an object under examination;
>
> generating a spatially inhomogeneous magnetic field in the target area, wherein the magnetic field in a first part-area in the target area has a first magnetic field strength that keeps the magnetic particles in the first part-area in a non-saturated state, and wherein the magnetic field in a second part-area in the target area has a second magnetic field strength that keeps the magnetic particles in the second part-area in a saturated state;
>
> generating a superposed oscillating or rotating magnetic field at least partially in the first part-area having a low magnetic field strength to cause at least some magnetic particles to oscillate or rotate;

irradiating the target area with electromagnetic radiation;

detecting electromagnetic radiation from the irradiated target area, wherein detected electromagnetic radiation includes at least one of reflected electromagnetic radiation and scattered electromagnetic radiation, which is modulated by interaction with rotating or oscillating magnetic particles in the target area; and

determining at least one of an intensity, absorption and polarization of the detected electromagnetic radiation as a function of a change in rotation or oscillation of the magnetic particles due to the modulation of the detected electromagnetic radiation.

The Final Office Action of August 3, 2009 indicates that (emphasis added) "[a] nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s)." (see, Final Office Action, page 7.)

This assertion is respectfully traversed.

It is respectfully submitted that although each of the above indicated claims are directed to a manipulation of two magnetic fields, U.S. Patent No. 7,300,452 manipulates the two fields to heat a target region, while U.S. Patent Application No. 10/552,812,

manipulates the two fields to examine an object (a patentably distinct and non-obvious operation in light of U.S. Patent No. 7,300,452) that introduces further patentably distinct and non-obvious operations including, separate from the manipulation o the two magnetic fields, irradiating the target area with electromagnetic radiation; detecting electromagnetic radiation from the irradiated target area, wherein detected electromagnetic radiation includes at least one of reflected electromagnetic radiation and scattered electromagnetic radiation, which is modulated by interaction with rotating or oscillating magnetic particles in the target area; and determining at least one of an intensity, absorption and polarization of the detected electromagnetic radiation as a function of a change in rotation or oscillation of the magnetic particles due to the modulation of the detected electromagnetic radiation.

It is respectfully submitted that based on claims 1-14 of U.S. Patent No. 7,300,452, it is patentably distinct and non-obvious to irradiate the target region, detect the electromagnetic radiation from the irradiated target area, and determine at least one of an intensity, absorption and polarization of the detected electromagnetic radiation as a function of a change in rotation or

oscillation of the magnetic particles due to the modulation of the detected electromagnetic radiation.

It is further respectfully submitted that the further independent claim 50 of U.S. Patent Application Serial No. 10/552,812 contains similar recitations as claim 39 indicated above.

It is respectfully submitted that each of the above noted elements of independent claims 39 and 50 of U.S. Patent Application No. 10/552,812 is patentably distinct and non-obvious over claims 1-14 of U.S. Patent No. 7,300,452, as discussed during the Examiner's Interview and as discussed further herein.

Although no consensus was reached during the Examiner's Interview, the Examiner was kind enough to state that he would reconsider the nonstatutory obviousness-type double patenting rejection of claims 39-61 of U.S. Patent Application No. 10/552,812 over claims 1-14 of U.S. Patent No. 7,300,452, in light of submittal of this Interview Summary and the discussion of issues provided herein.

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Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By _____

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
December 8, 2009

Attachments: Copy of Terminal Disclaimer submitted through EFS on December 4, 2009

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TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING "REFERENCE" APPLICATION

Docket Number (Optional): DE030112US

In re Application of: BERNHARD GLEICH

Application No.: 10/552,812

Filed: OCTOBER 11, 2005

For: ARRANGEMENT AND METHOD FOR THE SPATIALLY RESOLVED DETERMINATION OF STATE VARIABLES IN AN EXAMINATION AREA

The owner*, KONINKLIJKE PHILIPS ELECTRONICS N.V., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of any patent granted on pending **reference** Application Number 10/270,991, filed on OCTOBER 15, 2002, as such term is defined in 35 U.S.C. 154 and 173, and as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the **reference** application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on said **reference** application, "as the term of any patent granted on said **reference** application may be shortened by any terminal disclaimer filed prior to the grant of any patent on the pending **reference** application;" In the event that: any such patent granted on the pending **reference** application: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☑ The undersigned is an attorney or agent of record. Reg. No. 42,665

/Todd A. Holmbo/ — December 4, 2009
Signature — Date

Todd A. Holmbo
Typed or printed name

(914) 333-9608
Telephone Number

☑ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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